

recreation and to regulate water runoff and minimize soil erosion;

(g) Enable the Navajo Nation to maximize the potential benefits available to its members from their lands by providing technical assistance, training, and education in conservation practices, management and economics of agribusiness, sources and use of credit and marketing of agricultural products, and other applicable subject areas;

(h) Develop the Navajo Partitioned Lands to promote self-sustaining communities; and

(i) Assist the Navajo Nation with permitting the Navajo Partitioned Lands, consistent with prudent management and conservation practices, and community goals as expressed in the tribal management plans and appropriate tribal ordinances.

**§ 161.4 To what lands does this part apply?**

The grazing regulations in this part apply to the Navajo Partitioned Lands within the boundaries of the Navajo Indian Reservation held in trust by the United States for the Navajo Nation. Contiguous areas outside of the Navajo Partitioned Lands may be included under this part for management purposes by BIA in consultation with the affected permittees and other affected land users, and with the concurrence of the Resources Committee. Other affected land users include those holding approved assignments, permits, leases, and rights of way for activities such as: home sites, farm plots, roads, utilities, businesses, and schools.

**§ 161.5 Can BIA waive the application of this part?**

Yes. If a provision of this part conflicts with the objectives of the agricultural resource management plan provided for in § 161.200, or with a tribal law, BIA may waive the application of this part unless the waiver would either:

(a) Constitute a violation of a federal statute or judicial decision; or

(b) Conflict with BIA's general trust responsibility under federal law.

**§ 161.6 Are there any other restrictions on information given to BIA?**

Information that the BIA collects in connection with permits for NPL in sections 161.102, 161.206, 161.301, 161.302, 161.304, 161.402, 161.500, 161.502, 161.604, 161.606, 161.703, 161.704, 161.708, 161.717, 161.800, 161.801, and 161.802 have been reviewed and approved by the Office of Management and Budget. The OMB Control Number assigned is 1076-0162. Please note that a federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**Subpart B—Tribal Policies and Laws Pertaining to Permits**

**§ 161.100 Do tribal laws apply to grazing permits?**

Navajo Nation laws generally apply to land under the jurisdiction of the Navajo Nation, except to the extent that those Navajo Nation laws are inconsistent with this part or other applicable federal law. This part may be superseded or modified by Navajo Nation laws with Secretarial approval, however, so long as:

(a) The Navajo Nation laws are consistent with the enacting Navajo Nation's governing documents;

(b) The Navajo Nation has notified BIA of the superseding or modifying effect of the Navajo Nation laws;

(c) The superseding or modifying of the regulation would not violate a federal statute or judicial decision, or conflict with the Secretary's general trust responsibility under federal law; and

(d) The superseding or modifying of the regulation applies only to Navajo Partitioned Lands.

**§ 161.101 How will tribal laws be enforced on the Navajo Partitioned Lands?**

(a) Unless prohibited by federal law, BIA will recognize and comply with tribal laws regulating activities on the Navajo Partitioned Lands, including tribal laws relating to land use, environmental protection, and historic or cultural preservation.

(b) While the Navajo Nation is primarily responsible for enforcing tribal

laws pertaining to the Navajo Partitioned Lands, BIA will:

(1) Assist in the enforcement of Navajo Nation laws;

(2) Provide notice of Navajo Nation laws to persons or entities undertaking activities on the Navajo Partitioned Lands; and

(3) Require appropriate federal officials to appear in tribal forums when requested by the tribe, so long as the appearance would not:

(i) Be inconsistent with the restrictions on employee testimony set forth at 43 CFR part 2, subpart E;

(ii) Constitute a waiver of the sovereign immunity of the United States; or

(iii) Authorize or result in a review of (BIA) actions by the tribal court.

(c) Where the provisions in this subpart are inconsistent with a Navajo Nation law, but the provisions cannot be superseded or modified by the Navajo Nation laws under §161.5, BIA may waive the provisions under part 1 of 25 CFR, so long as the new waiver does not violate a federal statute or judicial decision or conflict with the Secretary's trust responsibility under federal law.

**§ 161.102 What notifications are required that tribal laws apply to grazing permits on the Navajo Partitioned Lands?**

(a) The Navajo Nation must provide BIA with an official copy of any tribal law or tribal policy that relates to this part. The Navajo Nation must notify BIA of the content and effective dates of tribal laws.

(b) BIA will then notify affected permittees of the effect of the Navajo Nation law on their grazing permits. BIA will:

(1) Provide individual written notice; or

(2) Post public notice. This notice will be posted at the tribal community building, U.S. Post Office, announced on local radio station, and/or published in the local newspaper nearest to the permitted Navajo Partitioned Lands where activities are occurring.

**Subpart C—General Provisions**

**§ 161.200 Is an Indian agricultural resource management plan required?**

(a) Yes, Navajo Partitioned Lands must be managed in accordance with the goals and objectives in the agricultural resource management plan developed by the Navajo Nation, or by BIA in close consultation with the Navajo Nation, under the Agricultural Act.

(b) The 10-year agricultural resource management and monitoring plan must be developed through public meetings and completed within 3 years of the initiation of the planning activity. The plan must be based on the public meeting records and existing survey documents, reports, and other research from Federal agencies, tribal community colleges, and land grant universities. When completed, the plan must:

(1) Determine available agricultural resources;

(2) Identify specific tribal agricultural resource goals and objectives;

(3) Establish management objectives for the resources;

(4) Define critical values of the tribe and its members and provide identified resource management objectives; and

(5) Identify actions to be taken to reach established objectives.

(c) Where the provisions in this subpart are inconsistent with the Navajo Nation's agricultural resource management plan, the Secretary may waive the provisions under part 1 of this title, so long as the waiver does not violate a federal statute or judicial decision or conflict with the Secretary's trust responsibility under federal law.

**§ 161.201 Is environmental compliance required?**

Actions taken by BIA under this part must comply with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, applicable provisions of the Council on Environmental Quality, 40 CFR part 1500, and applicable tribal laws and provisions of the Navajo Nation Environmental Policy Act CAP-47-95, where the tribal laws and provisions do not violate a federal or judicial decision or conflict with the Secretary's trust responsibility under federal law.